

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

February 11, 2015
9:00 a.m.

Members present: Chairman Gilbert, Councilors Beaurivage, Boisvert, Butler, O'Brien, Gegas, Rawnsley, and Varotsis

Members absent: Councilors Gosse, Henderson, and Hinds

Also present were Paula Scott, Appeals Clerk and Carolyn Guerdet, Council Clerk

Chairman Gilbert called the meeting to order at 9:05 a.m. with a quorum present.

1. Approval of Minutes of the May 14, 2014 Meeting

- ***Councilor Varotsis made a motion to accept the minutes of the May 14, 2014 meeting, second by Councilor O'Brien. Motion passed unanimously. Abstaining were Councilors Beaurivage and Boisvert.***

Chairman Gilbert noted meetings of the council have been attempted but a quorum has been difficult to attain due to unfilled positions from some of the state agencies mandated by statute to have members on the Council. Legislation has been submitted to remove agencies, i.e. Health and Human Services, OEP, and Dept. of Safety, from the Water Council that are no longer sending a representative. It has been amended to require inclusion of representatives from the RMAC and Lakes Association.

Chairman Gilbert introduced and welcomed the new members Bob Beaurivage, representing the Public, and John Boisvert, representing Water Works.

2. Status of Appeals

Appeals Clerk, Paula Scott, presented an update on the following appeals:

I. New Appeals

Docket No. 15-01 Lower Bartlett Water Precinct

Re: 12/16/14 Denial of Request to Suspend Permit AoT-0715, dated 5/7/14 issued to Triple K Properties, Ltd.

Hearing Officer: Not assigned

Status: January 14, 2015 received Notice of Appeal. 1/15/15 issued receipt of appeal letter.

February 5, 2015 received Appearance of Gretchen Hamel for DES. 2/6/15 received

Appearance of Cooley Arroyo for appellant and an Assented-to Motion to Defer Acceptance of Appeal. Council to act on the motion and the appeal.

- ***Councilor O'Brien made a motion to defer acceptance of the appeal per the request of the parties, second by Councilor Butler. Discussion was held.***
- ***Councilor Rawnsley made a motion to amend the pending motion and table this consideration of this appeal, second by Councilor Butler.***
- ***Councilors O'Brien and Butler accepted the motion to amend.***

- ***The Amended Motion, to table consideration of this appeal, was passed unanimously.***

Chairman Gilbert will be in contact with the Council's legal counsel. This appeal will be acted upon at the next meeting of the Council.

II. Decision and Orders that need to be written finalized and issued.

III. Hearings or PHCs Pending

Dockets No. 12-01 WC – David Sundman, et al.

Re: 12/19/11 Alteration of Terrain Permit No. AoT-0353 for Dalton Valley Drag

Hearing Officer: David Conley assigned on 2/9/12

Status: Received appeal that appears to be timely on January 18, 2012. Issued receipt of appeal letter on January 20, 2012. Council accepted the appeal Feb. 8, 2012, notice was issued Feb.9, 2012. 8/27/12 received Stipulation to Dismissal of Appeal of Permit WPS-8289A. 8/30/12 Order regarding Dismissal of Appeal by agreement was issued. In accordance with the dismissal, Docket No. 09-05 WC Dalton Valley Drag, LLC is withdrawn from the Council's docket. September 4, 2012 received Status Update from the Department regarding Docket No.12-01 WC. The license action is under Reconsideration. November 15, 2013 issued letter regarding request for hearing, which states that the matter is not within the Water Council's jurisdiction. August 4, 2014 received request to schedule PHC. 8/6/14 issued Notice of PHC scheduled for Sept. 8, 2014. 8/18/14 received Appellant's Partially Assented-to Motion to Continue Prehearing Conference. 8/25/14 issued letter granting Motion to Continue and reschedule PHC for Sept. 29, 2014 at 1 p.m. 9/19/14 received withdrawal of counsel for DES-Allen Brooks and Appearance of counsel for DES-Christopher Aslin. 9/19/14 received Appearance of Counsel for permittee-Philip Braley and Cooley Arroyo and Assented-to Motion to Intervene. 9/23/14 issued letter granting Motion to Intervene. 9/26/14 received Withdrawal of Attorney Joly and an Appearance of Attorney Brown for the appellants. 9/29/14 received revised Withdrawal of Rose Marie Joly and revised Appearance for Marcia Brown. November 18, 2014 received Assented-to Emergency Motion for Extension. 11/1/14 issued letter granting Eminent Motion for Extension. 11/26/14 received Amended Notice of Appeal. December 8, 2014 received Withdrawal of permittee's counsel. 12/10/14 issued ruling on amended Notice of Appeal and new Deadlines. 12/24/14 received Assented-to Motion to Stay Pre-hearing Conference and hearing. 12/30/14 issued letter granting Motion and scheduling PHC for 4/16/15 at 8:30 a.m.

Docket No. 14-02 WC – Monadnock Paper Mills, Inc.

Re: 1/13/14 State Water Quality Certificate, WQC #2013-FERC-001, Conditions

Hearing Officer: David Conley, Esq. assigned on 5/19/14

Recused Member: Carol Henderson and Mike Butler recused.

Status: February 28, 2014 received Notice of Appeal. March 11, 2014 issued receipt of appeal letter. May 5, 2014 received Appearance from Atty. Mary Maloney for DES. Council to accept or dismiss appeal. Appeal was accepted at the May 14, 2014 Council meeting. 5/14/14 issued Appeal accepted letter. 5/20/14 issued Notice of Prehearing Conference (PHC). 5/23/14 received Assented to Motion to Continue PHC. 5/29/14 issued letter granting Motion to Continue and rescheduled PHC for Sept. 10th at 8 a.m. August 13, 2014 received Assented to Motion to continue Prehearing conference. 8/14/14 issued letter granting Motion to Continue and rescheduled PHC for Oct. 27, 2014 at 8:30 a.m. 10/20/14 received Assented-to Motion to Continue PHC. 10/21/14 issued letter granting Motion to Continue and rescheduled PHC for January 12, 2015 at 8:30 a.m. 12/31/14 sent notice of rescheduled

Prehearing Conference due to scheduling conflict. PHC is scheduled for 1/16/15 at 11 a.m. 1/4/1115 received Assented-to Motion to Continue PHC. 1/6/15 issued letter granting Motion and rescheduling PHC for March 16, 2015 at 11 a.m.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

3. New Business

Director Forbes gave a summary of the bills the Water Division is tracking.

4. Old Business

5. Next Meeting

March 11, 2015

6. Adjournment

- ***Councilor Varotsis made a motion to adjourn, second by Councilor Boisvert. Motion passed unanimously.***

Meeting was concluded at 9:53 a.m.